

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Cigars International, Inc.

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF Northampton
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Timothy D. Pecsénye, Esquire
BLANK ROME LLP
One Logan Square, 130 N. 18th Street
Philadelphia, PA 19103-6998 215-569-5619

DEFENDANTS

Corona Cigar Company

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT Orange
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

ATTORNEYS (IF KNOWN)

Allison R. Imber, Esquire
Allen, Dyer, Doppelt, Milbrath & Gilchrist, P.A.
255 South Orange Avenue – Suite 1401
Orlando, FL 32801

II. BASIS OF JURISDICTION (PLACE AN "X" IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item 111)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in This State	<input checked="" type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated or Principal Place of Business in Another State	<input type="checkbox"/> 5	<input checked="" type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 196 Contract Product Liability	Personal Injury <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury Personal Property <input type="checkbox"/> 362 Personal Injury – Med. Malpractice <input type="checkbox"/> 365 Personal Injury – Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 360 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input checked="" type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS – Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/CC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of state statutes <input type="checkbox"/> 890 Other Statutory Actions

V. ORIGIN

<input checked="" type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	Transferred from <input type="checkbox"/> 5 another district (specify)	<input type="checkbox"/> 6 Multidistrict Litigation	Appeal to District Judge from <input type="checkbox"/> 7 Magistrate Judgment
-----------------------------------------------------------	-----------------------------------------------------	----------------------------------------------------------	---------------------------------------------------	---------------------------------------------------------------------------	-----------------------------------------------------	---------------------------------------------------------------------------------

VI. CAUSE OF ACTION Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity.):

15 U.S.C. § § 1114, 1125(a) Trademark Infringement and Unfair Competition

VII. REQUESTED IN COMPLAINT:	CHECK IF THIS IS A CLASS ACTION <input type="checkbox"/> UNDER F.R.C.P. 23	DEMAND	CHECK YES only if demanded in complaint: JURY DEMAND: <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
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VIII. RELATED CASE(S) (See instructions):

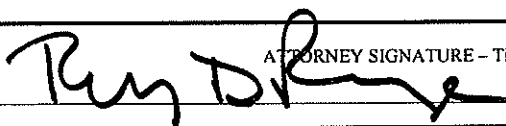
IF ANY NONE

JUDGE _____

DOCKET NUMBER _____

DATE April 24, 2009

ATTORNEY SIGNATURE – Timothy D. Pecsénye, Atty. No. 51339



FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

Authority For Civil Cover Sheet

The JS - 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. (a) Plaintiffs - Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked, (See Section III below; federal question actions take precedence over diversity cases.)

III. Residence (citizenship) of Principal Parties. This section of the JS-44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Nature of Suit. Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section V below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

V. Origin. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check(5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

VI. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause.

VII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, FR. Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. Related Cases. This section of the JS-44 is used to reference related pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

UNITED STATES DISTRICT COURT- APPENDIX F

FOR THE EASTERN DISTRICT OF PENNSYLVANIA – DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 6771 Chrisphalt Drive, Bath, PA 18014

Address of Defendant: 7792 W. Sand Lake Road, Orlando, FL 32819

Place of Accident, Incident or Transaction: Pennsylvania
(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock? (Attach two copies of the Disclosure Statement Form in accordance with Fed. R. Civ. P. 7.1(a)) Yes ☒ No ☐

Does this case involve multidistrict litigation possibilities? Yes ☐ No ☒

RELATED CASE, IF ANY:

Case Number: _____ Judge _____ Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?
Yes ☐ No ☒

CIVIL: (Place X in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☒ All other Federal Question Cases – Lanham Act – Trademark Infringement
(Please specify)

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify)
7. ☐ Products Liability
8. ☐ Products Liability – Asbestos
9. ☐ All other Diversity Cases
(Please specify)

ARBITRATION CERTIFICATION
(Check appropriate Category)

I, Timothy D. Pecsénye, counsel of record do hereby certify:

- ☐ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs.
- ☒ Relief other than monetary damages is sought.

DATE: April 24, 2009

Timothy D. Pecsénye, Attorney-at-Law

51339

Attorney I.D. #

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: April 24, 2009

Timothy D. Pecsénye, Attorney-at-Law

51339

Attorney I.D. #

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CIGARS INTERNATIONAL, INC.

v.

CORONA CIGAR COMPANY

:
:
: Civil Action No. _____
:
:

DISCLOSURE STATEMENT FORM

Please check one box:

- ☐ The nongovernmental corporate party, in the above listed civil action does not have any parent corporation and publicly held corporation that owns 10% or more of its stock.
- ☒ The nongovernmental corporate party, Cigars International, Inc., in the above listed civil action has the following parent corporation(s) and publicly held corporation(s) that owns 10% or more of its stock: Swedish Match AB

April 24, 2009

Date


Signature

Counsel for: Plaintiff

Federal Rule of Civil Procedure 7.1 Disclosure Statement

(a) WHO MUST FILE: NONGOVERNMENTAL CORPORATE PARTY. A nongovernmental corporate party to an action or proceeding in a district court must file two copies of a statement that identifies any parent corporation and any publicly held corporation that owns 10% or more of its stock or states that there is no such corporation.

(b) TIME FOR FILING; SUPPLEMENTAL FILING. A party must:

- (1) file the Rule 7.1(a) statement with its first appearance, pleading, petition, motion, response, or other request addressed to the court, and
- (2) promptly file a supplemental statement upon any change in the information that the statement requires.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CIGARS INTERNATIONAL, INC.

v.

CORONA CIGAR COMPANY

:
:
: Civil Action No. _____
:
:

DISCLOSURE STATEMENT FORM

Please check one box:

- ☐ The nongovernmental corporate party, in the above listed civil action does not have any parent corporation and publicly held corporation that owns 10% or more of its stock.
- ☒ The nongovernmental corporate party, Cigars International, Inc., in the above listed civil action has the following parent corporation(s) and publicly held corporation(s) that owns 10% or more of its stock: Swedish Match AB

April 24, 2009

Date

Tony D. Ryz
Signature

Counsel for: Plaintiff

Federal Rule of Civil Procedure 7.1 Disclosure Statement

(a) WHO MUST FILE: NONGOVERNMENTAL CORPORATE PARTY. A nongovernmental corporate party to an action or proceeding in a district court must file two copies of a statement that identifies any parent corporation and any publicly held corporation that owns 10% or more of its stock or states that there is no such corporation.

(b) TIME FOR FILING; SUPPLEMENTAL FILING. A party must:

- (1) file the Rule 7.1(a) statement with its first appearance, pleading, petition, motion, response, or other request addressed to the court, and
- (2) promptly file a supplemental statement upon any change in the information that the statement requires.

APPENDIX I

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

CIGARS INTERNATIONAL, INC.	:	CIVIL ACTION
	:	
v.	:	
	:	
CORONA CIGAR COMPANY	:	NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a case management track designation form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. §2241 through §2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (X)

<u>April 24, 2009</u>	<u>Timothy D. Pecsénye</u>	<u>Plaintiff, Cigars International, Inc.</u>
Date	Attorney-at-law	Attorney for
<u>(215) 569-5619</u>	<u>(215) 832-5619</u>	<u>pecsenye@blankrome.com</u>
Telephone	FAX Number	E-Mail Address

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CIGARS INTERNATIONAL, INC.,)	
Plaintiff,)	
)	
v.)	Civil Action No.
)	
CORONA CIGAR COMPANY)	
Defendant.)	
)	

COMPLAINT FOR DECLARATORY JUDGMENT OF NON-INFRINGEMENT

Plaintiff Cigars International, Inc. ("CI" or "Plaintiff"), by and through its attorneys, Blank Rome LLP, hereby alleges, upon personal knowledge with respect to itself and its own acts, and upon information and belief with respect to all other matters, the following claims against defendant Corona Cigar Company ("Corona" or "Defendant"):

JURISDICTION

1. This is an action for a declaratory judgment of trademark non-infringement for the purpose of resolving an actual justifiable controversy between the parties.

2. This Court has jurisdiction over these claims for declaratory relief arising under the laws of the United States, 35 U.S.C. § 1 et seq., pursuant to 28 U.S.C. §§ 1331 and 1338(a), and the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202.

3. Upon information and belief, Defendant conducts business in and has substantial contact with the Commonwealth of Pennsylvania such that requiring Defendant to respond to this action will not violate due process. Upon information and belief, Defendant is subject to the personal jurisdiction of this Court and is amenable to service of process pursuant to the Pennsylvania long-arm statute and Fed. R. Civ. P. 4.

4. Venue is proper pursuant to 28 U.S.C. § 1391. Plaintiff has engaged in activities in this judicial district which are alleged to willfully infringe a certain trademark purportedly owned by Defendant. In particular, Plaintiff has sold or offered to sell allegedly infringing products to customers located in this district.

PARTIES

5. Plaintiff Cigars International, Inc. is a corporation organized and existing under the laws of Delaware, having its principal place of business at 6771 Chrisphalt Drive, Bath, Pennsylvania 18014.

6. Upon information and belief, Corona Cigar Company is a Florida corporation, having its principal place of business at 7792 W. Sand Lake Road, Orlando, Florida 32819. Upon information and belief, Corona Cigar Company does business in this district.

EVENTS GIVING RISE TO THIS ACTION

7. CI owns United States Trademark Registration No. 3,535,112 for CU-AVANA INTENSO for "cigar cases, cigar cutters, cigars, ashtrays, and humidors." The mark has a priority date of constructive first use of October 24, 2007. A true and correct copy of CI's CU-AVANA INTENSO registration is attached hereto as Exhibit 1.

8. CI has been exclusively and continuously using the mark CU-AVANA INTENSO in interstate commerce on or in connection with "cigar cases, cigar cutters, cigars, ashtrays, and humidors" since at least as early as June 15, 2008. CU-AVANA INTENSO is a line extension of CI's brand, CU-AVANA, which has been in continuous use since as least as early as September 1, 1997 and is the subject of CI's United States Trademark Registration No. 2,257,792. A true and correct copy of CI's CU-AVANA registration is attached hereto as Exhibit 2.

9. On CI's current website, <cigarsinternational.com>, the mark CU-AVANA INTENSO is used in its entirety numerous times, and there are no instances of the term "Intenso" being used apart from the mark as a whole. A true and correct print out of the mark as used on the website is attached hereto as Exhibit 3.

10. Customer testimonials received by CI demonstrate that the public has come to associate the mark CU-AVANA INTENSO with CI's product offerings. Customer testimonials are attached hereto as Exhibit 4.

11. Customer testimonials further demonstrate that the public does not use the term "Intenso" apart from the mark CU-AVANA INTENSO when referring to CI's product. Id.

12. CI's mark CU-AVANA INTENSO creates a distinct and unitary commercial impression.

13. On July 1, 2008, Corona's President Jeff Borysiewicz sent an e-mail to CI's President Keith Meier indicating that Mr. Borysiewicz was aware of CI's CU-AVANA INTENSO mark. In this e-mail, Mr. Borysiewicz claimed that Corona was the owner of the trademark INTENSA. A true and correct print out of the July 1, 2008 e-mail is attached hereto as Exhibit 5.

14. Given the July 1, 2008 date of the e-mail, Corona had knowledge of CI's CU-AVANA INTENSO mark for at least nine months, but during this time Corona did not seek to enforce any rights in the INTENSA mark based on an alleged likelihood of confusion between Corona's mark and CI's mark.

15. It was not until April 13, 2009, when Corona's counsel sent a cease and desist letter to CI's counsel, that Corona's counsel claimed that Corona is the owner of United States

Trademark Registration No. 2,775,839 (the "Trademark in Suit"). A true and correct copy of the April 13, 2009 letter is attached hereto as Exhibit 6.

16. Corona's counsel alleged that CI adopted the term Intenso "to deliberately trade on our client's goodwill and trademark rights, as well as to attempt to confuse our client's customers and potential customers." Corona's counsel further alleged that "your client is likely to be liable for damages consisting of all its profits from sales of INTENSO products, as well as the costs of the lawsuit and attorney's fees under 15 U.S.C. § 1117." Id.

17. Based on the belief that rights in the INTENSA mark were being violated, Corona's counsel demanded that CI undertake the following: immediately discontinue all use of the word INTENSO, with or without the word CU-AVANA, and agree not to adopt or use any mark confusingly similar to that of Corona; destroy or send to Corona all goods, packaging and advertisements which include the word INTENSO; and reimburse Corona for all allegedly infringing sales to date. Id.

18. By letter dated April 24, 2009, CI's counsel responded to Corona's letter. In its response, CI indicated that it is unlikely that the CU-AVANA INTENSO mark, as registered and used, would be confused with Corona's INTENSA mark.

19. CI's CU-AVANA INTENSO mark, as registered and as used, possesses a distinct appearance, sound and commercial impression from Corona's INTENSA mark.

20. The only commonality between the marks is the lettering "INTENS-".

21. The United States Patent and Trademark Office, through its registration of CI's mark, has already adjudged the marks CU-AVANA INTENSO and INTENSA to be *not* likely to cause confusion.

22. Ironically, despite Corona's assertions in the April 24, 2009 letter, Corona has a history of behavior suggesting or constituting unfair competition with one or more of CI's valuable trademarks.

23. Corona's recent and long-delayed attempt to enforce its alleged rights in the INTENSA mark have irreparably harmed CI.

24. Defendant (or those acting by or for Defendant) has caused a reasonable apprehension of a lawsuit on the part of Plaintiff with regard to the Trademark in Suit, and the ability of Plaintiff to import, market, distribute, sell, and/or offer to sell at least some of its products.

25. Based on the foregoing, there is an actual controversy between the parties with regard to the alleged infringement of a

certain trademark allegedly owned by Defendant, United States Trademark Registration No. 2,775,839.

26. Plaintiff therefore seeks a judicial determination and a declaration of the respective rights and duties of Defendant with regard to the Trademark in Suit and Plaintiff's affected products and services.

COUNT I

**Declaratory Judgment of Non-Infringement of the
Trademark In Suit**

27. Plaintiff incorporates by reference, as though fully set forth, the allegations contained in paragraphs 1 through 26 of this Complaint.

28. Defendant has alleged that Plaintiff is infringing the Trademark in Suit and is otherwise engaging in acts of unfair competition.

29. Plaintiff denies the allegations that its use of CU-AVANA INTENSO infringes the Trademark in Suit. Plaintiff's activities in connection with the importation, marketing, distribution, offering for sale and selling of its products bearing the CU-AVANA INTENSO mark are lawful and do not infringe Defendants' rights in the Trademark in Suit.

30. Plaintiff's activities in connection with the importation, marketing, distribution, offering for sale and sale

of its products bearing the CU-AVANA INTENSO mark are not likely to cause confusion with the Trademark in Suit as to source, affiliation, sponsorship or approval.

PRAYER FOR RELIEF

WHEREFORE, CI prays for judgment against Defendant as follows:

A. A declaratory judgment that Plaintiff's activities in connection with the importation, marketing, distribution, offering for sale and selling of its products bearing the CU-AVANA INTENSO mark are lawful and do not infringe Defendant's rights in the Trademark in Suit;

B. A declaratory judgment that Plaintiff's activities in connection with the importation, marketing, distribution, offering for sale and selling of its products bearing the CU-AVANA INTENSO mark does not and could not constitute trademark infringement, trade dress infringement, false advertising, or unfair competition in violation of Defendant's rights in the Trademark in Suit.

C. That this case be deemed exceptional and that Plaintiff be awarded its reasonable attorneys' fees pursuant to 15 U.S.C. § 1117;

D. That Plaintiff be awarded its costs of suit; and

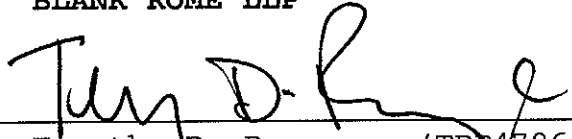
E. That Plaintiff be awarded such other and further relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Pursuant to Fed. R. Civ. P. 38, CI hereby demands a trial by jury of all issues so triable.

BLANK ROME LLP

BY: _____

A handwritten signature in black ink, appearing to read "Tim D. Pecszenye", is written over a horizontal line.

Timothy D. Pecszenye (TDP4786)

David M. Perry (DMP5206)

One Logan Square

Philadelphia, PA 19103

(215) 569-5500

Attorneys for Plaintiff

Cigars International, Inc.

Dated this 24th day of April 2009.

EXHIBIT 1

Int. Cl.: 34

Prior U.S. Cls.: 2, 8, 9, and 17

United States Patent and Trademark Office

Reg. No. 3,535,112

Registered Nov. 18, 2008

**TRADEMARK
PRINCIPAL REGISTER**

CU-AVANA INTENSO

CIGARS INTERNATIONAL, INC. (DELAWARE
CORPORATION)

6771 CHRISPHALT DRIVE

BATH, PA 18014

FOR: CIGAR CASES; CIGAR CUTTERS; CIGARS;
ASHTRAYS; HUMIDORS, IN CLASS 34 (U.S. CLS. 2,
8, 9 AND 17).

FIRST USE 6-15-2008; IN COMMERCE 6-15-2008.

THE MARK CONSISTS OF STANDARD CHAR-
ACTERS WITHOUT CLAIM TO ANY PARTICULAR
FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NO. 2,257,792.

THE FOREIGN WORDING IN THE MARK
TRANSLATES INTO ENGLISH AS INTENSE, VIVID.

SN 77-311,742, FILED 10-24-2007.

JANICE KIM, EXAMINING ATTORNEY

EXHIBIT 2

Int. Cl.: 34

Prior U.S. Cls.: 2, 8, 9, and 17

Reg. No. 2,257,792

United States Patent and Trademark Office

Registered June 29, 1999

**TRADEMARK
PRINCIPAL REGISTER**

CU-AVANA

**CU-AVANA, INC. (FLORIDA CORPORATION)
7001 N. WATERWAY DRIVE, SUITE 108
MIAMI, FL 33155**

**FIRST USE 9-1-1997; IN COMMERCE
9-1-1997.**

FOR: TOBACCO, PREMIUM CIGARS, HUMIDORS AND ACCESSORIES THEREFOR, NOT OF PRECIOUS METAL, IN CLASS 34 (U.S. CLS. 2, 8, 9 AND 17).

SN 75-320,460, FILED 7-7-1997.

TINA L. SNAPP, EXAMINING ATTORNEY

EXHIBIT 3



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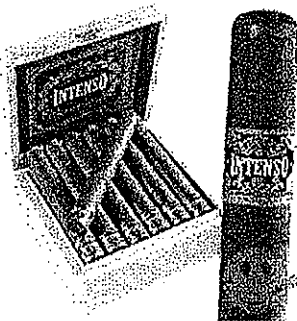
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Cu-Avana Intenso

Cu-Avana Intenso. This richly rendered flavor bomb puts that name to the test!

The original Cu-Avana blends (both the exceedingly mild natural and mild-medium maduro) have been lining the humidors of fellas across the land who enjoy mild cigars that are consistently on point. All was well and good until full-bodied fans began grumbling for a full-tilt Cu-Avana blend, one made with the same relentless consistency but with more junk in the trunk - more richness, more body, more complexity.

Wait no more because the Cu-Avana Intenso is here. This is a powerfully full-bodied and extraordinarily flavorful beaut rising from the cigar capital of Nicaragua: Esteli, specifically Nestor Plasencia. The blend begins with a dark and redolent Nicaraguan Corojo wrapper grown from Habano-seed. Thick and oily, this leaf is a marvel to look at and bubbles over with flavor. The true power of this cigar is derived from its long-leaf combination: an extensively aged, all-ligero mixture of tobaccos from Peru and Nicaragua. Cu-Avana Intenso erupts on the palate leaving a hearty, spicy core with an underpinning of dense, oaky, earthy notes and a long, satisfying finish. Full-bodied from start to finish, the flavors evolve throughout the slow burn, becoming increasingly intense right down to the nub.

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Wrapper... COROJO/CRIOLLO

Country... HONDURAS

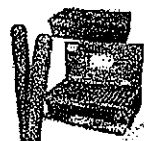
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Gurkha Fuerte

Price per cigar: \$4.16 - \$7.50



Rocky Patel The Edge


Price per cigar: \$4.00 - \$4.95

Products	Staff Reviews	Fan Mail			
SIZE	PACK	AVAIL	PRICE	QTY	
Churchill (7.0" x 48)	☆ BOX OF 20	In Stock	\$140.00 \$69.95	<input type="text"/>	Add to Cart
	☆ 5-PACK	In Stock	\$22.00	<input type="text"/>	Add to Cart
Gordo (4.5" x 54)	☆ BOX OF 20	In Stock	\$400.00 \$59.95	<input type="text"/>	Add to Cart
	☆ 5-PACK	In Stock	\$18.00	<input type="text"/>	Add to Cart
Robusto (5.0" x 50)	☆ BOX OF 20	In Stock	\$100.00 \$59.95	<input type="text"/>	Add to Cart
	☆ 5-PACK	In Stock	\$18.00	<input type="text"/>	Add to Cart
Toro (6.0" x 52)	☆ BOX OF 20	In Stock	\$420.00 \$69.95	<input type="text"/>	Add to Cart
	☆ 5-PACK	In Stock	\$20.00	<input type="text"/>	Add to Cart
Torpedo (6.0" x 54)	☆ BOX OF 20	In Stock	\$440.00 \$74.95	<input type="text"/>	Add to Cart
	☆ 5-PACK	In Stock	\$23.00	<input type="text"/>	Add to Cart

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Your search for "CU-AVANA" returned 3 results.



Cu-Avana
Price per cigar: \$2.00 - \$3.20



Cu-Avana Intenso
Price per cigar: \$3.00 - \$4.60



Cu-Avana Maduro
Price per cigar: \$2.00 - \$3.20

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Country

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- Honduras
- Nicaragua
- Bahamas
- Mexico
- USA
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Price Per Cigar

- \$1 or less
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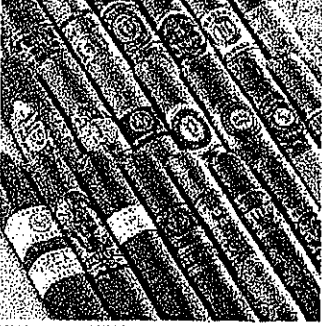
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CI's 'Kitchen Sink' Sampler

This is a roll in the catnip!

Talk about 100-lbs of you-know-what in a 50-lb bag! Comprised of 20 choice, premium handmades - including the likes of Graycliff, Rocky Patel, Padilla, Gurkha, Man O' War, 5 Vegas, and so much more - there are almost too many goodies to get your mind around. 20, count 'em, twenty different, top-notch brands in one place, ready to bring 20 savory hours of finger-burning pleasure into your life. With a combined retail value of \$136.80, my delightful offer to you is a 1/2 price no-brainer. Hurry it up though, buster, because not good thing lasts forever.


CI's Kitchen Sink Sampler Includes:

- 1 - 5 Vegas Classic Robusto (5" x 50)
- 1 - 5 Vegas Gold Series Robusto (5" x 50)
- 1 - Cu-Avana Intenso Robusto (5" x 50)
- 1 - Graycliff 1666 PG Robusto (5.25" x 50)
- 1 - Cuba Libre Magnum (5.5" x 55)
- 1 - El Mejor Emerald Robusto (5.5" x 50)
- 1 - Rocky Patel Olde World Reserve Corojo Robusto (5.5" x 54)
- 1 - Rocky Patel Decade Robusto (5" x 50)
- 1 - Rocky Patel Edge Maduro Robusto (5" x 50)
- 1 - Rocky Patel Sun Grown Robusto (5.5" x 50)
- 1 - Rocky Patel Connecticut Robusto (5.5" x 50)
- 1 - Rocky Patel Signature Robusto (5" x 50)
- 1 - Man O' War Robusto (5.5" x 50)
- 1 - Padilla Achilles Robusto (5" x 54)
- 1 - Padilla Habano Robusto (5" x 50)
- 1 - Padilla Obsidian Robusto (5" x 50)
- 1 - La Herencia Cubana Robusto (5" x 50)
- 1 - Sol Cubano Cuban Cabinet Robusto (5" x 50)
- 1 - Gurkha Sherpa Robusto (5" x 50)
- 1 - Gurkha Park Avenue Robusto (5" x 50)

MSRP: \$136.80

[Products](#) [Fan Mail](#)


EXHIBIT 4



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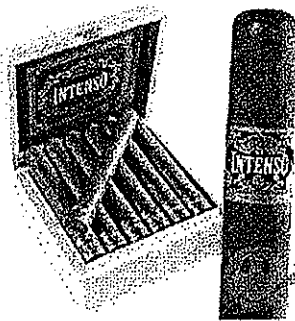
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Cu-Avana Intenso

Cu-Avana Intenso. This richly rendered flavor bomb puts that name to the test!

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John Bull

Zelo de Cuba

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Shop Similar Types

Strength... FULL

Wrapper... COROJO/CRIOLO

Country... HONDURAS

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1 to 6 of 6

IW of Hoboken, NJ

"The Cuavana Intenso rocks! I waited several weeks for a backorder and was it worth a wait!! The cigar is impressive looking, has a heavy in the hand feel and smokes like a dream. This 4.5 x 54 lasts a good 45 minutes and my dog is getting longer walks than he ever expected. I've got to order some more before the SCHIP kicks in!!"

SV of Templeton, CA

"I'm sure you guys have heard of it. Its Cu-Avana's venture into the med-full range cigars. I have heard the hype and was really excited to try one. Not a bad smoke, great construction, good look, good draw, good burn. The flavor though was....peppery and some cedar, but not very intense or complex. Definitely a med not full, at least in my book. Not a bad cigar by any means, but I was expecting more. Happy Smoking"

GR of Sterling, VA

"an EXCELLENT cigar. I was just blown away by the taste and smokability of this cigar. It has a nice, firm roll with ash that hangs on the end of a cigar like a champ. Flavor is medium - medium full with a little spice. Excellent deal for an excellent cigar. I gotta get myself s'more of these soon."

MCM of Leesburg, VA

"Very nice cigar. From the wonderful pre-light aroma until the nub was laid away, this one pleased me. Firmish grey ash, absolutely even burn and a lot of powerful flavour. The appearance of the thing is a delight; very dark and beautifully constructed. A keeper."

RT of Sugar Hill, GA

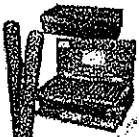
"Cu-Avana Intenso is the bomb! A strong well balanced full powered flavorful bomb. I bought a 5 pack of these to round out an order for a freebie deal CI was running. I didn't expect much-maybe good marketing on another blah blah "full bodied" stick. But this was Nestor P. What was I thinking. I was happily wrong. I decided to smoke one "chain style" after a great RP Edge Counterfeit. I wasn't expecting the Intenso to keep up. Was I wrong. Excellent smoke. Well balanced. Strong and full but with the proper sweet counterbalance-especially the 1st 3rd. When I make more room in my humi or buy a bigger box I'm ordering a box."

JW of Chicago, IL



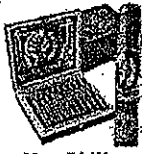
Gurkha Fuerte

Price per cigar: \$4.16 - \$7.50



Rocky Patel The Edge

Price per cigar: \$4.00 - \$4.95



Man O' War
Price per cigar: \$4.55 - \$8.00

"Wow! The Churchill is the real deal. I smoked one fresh off the truck and was blown away. Where do I begin? The cigar sports a gorgeous medium to dark brown slightly mottled wrapper that has a nice oily sheen. The cigar is ROCK solid and uniform in construction. It had a perfect draw and razor sharp burn. It starts off with a nice dose of spice which continued to build right down to the nub. At some point, I started to get some nice cedary overtones, with hints of chocolate, pepper, and some earthiness. This baby is full throttle, pedal to the metal goodness. I am talking strong kids. I smoked it after a pretty substantial dinner and it still got my full attention. The fullest bodied cigar I have ever tasted from Nestor P, and one of the best. I was totally blown away. While these are extremely enjoyable now, I suspect 3-6 months of down time will make them even better. This is a true new high water mark for full bodied, yet still very tasty and well balanced cigars. I am way impressed. Again, gorgeous cigar all around. NOT, I repeat NOT for the guys who like mild cigars. This is truly for the well seasoned cigar smoker. CI, you guys got it going on. Review was spot on!!! Thanks and of course, WOW!!!!!! Cheers! :<)"

[Read customer comments about this brand](#)

1 to 6 of 6
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EXHIBIT 5

Keith Meier

From: Keith Meier [keithm@cigarsinternational.com]
Sent: Tuesday, July 01, 2008 10:06 PM
To: 'Jeff Borysiewicz'
Subject: RE: Intenso

Jeff, we have a trademark for "Cu-Avana Intenso" and that's what this humidor and brand of cigars is. Cu-Avana Intenso is a line extension of Cu-Avana which has been in continuous use since the mid-90s. Also I noticed you use "Mega-Sampler" from time to time on your site. This is my pending trademark as well.

Best regards,
Keith

-----Original Message-----

From: Jeff Borysiewicz [mailto:coronacigar@yahoo.com]
Sent: Tuesday, July 01, 2008 5:29 PM
To: keithm@cigarsinternational.com
Subject: Intenso

Keith,

I called your office today but got your voice mail.

I received a catalog from Quality Importers today and there is a Cu Avana Intenso humidor pictured and advertised catalog. I don't know if you did a trademark search on Intenso, but Corona Cigar Company owns the trademark INTENSA and the English translation INTENSE. The mark has been in use since February 2000.

Call me on my cel at 407.595.8086 to discuss.

By the way, the Cigar Rights of America is in full swing and it would be beneficial for the cigar industry and consum your company became involved. Thompson's, Holts and Corona Cigar are donating ad space in their catalogs to the CRA. The more members the CRA has the more powerful the voice is against the anti-cigar lobby.

Thanks,

Jeff Borysiewicz

www.coronacigar.com

Protect Your Right To Enjoy Cigars, Join the CRA!

www.CigarRights.org

4/20/2009

EXHIBIT 6

ALLEN

DYER

DOPPELT

MILBRATH &

GILCHRIST, P.A.

INTELLECTUAL PROPERTY ATTORNEYS

Herbert L. Allen
Robert Dyer
Ava K. Doppelt
Stephen D. Milbrath
Brian R. Gilchrist
Christopher F. Regan
David L. Sigalow
Richard K. Warther
Enrique G. Estévez, Ph.D.
Michael W. Taylor
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Stephen H. Luther
Jeffrey S. Boyles
Ryan T. Santurri

Paul J. Dittmyer
Bridget H. Labutta
Gregory B. Allen
Jack G. Abid
David S. Carus
David W. Magana
Allison R. Imber
Jeremy B. Berman
Justin R. Sauer

Of Counsel:
Neal J. Blaher
Karen Koster Burr
Arthur G. Yeager
Robert H. Thornburg

Patent Agent:
Carl M. Napolitano, Ph.D.

aimber@addmg.com

April 13, 2009

Via Email and Fed-Ex

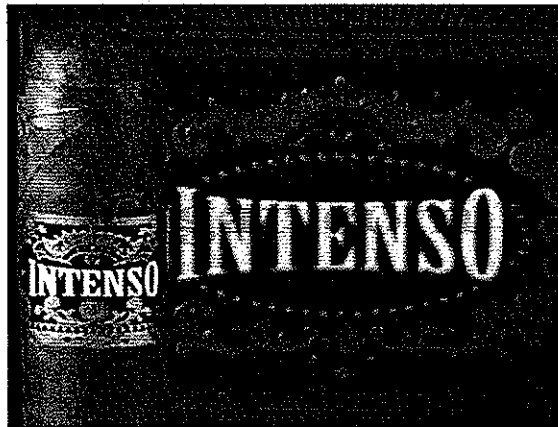
David M. Perry, Esq.
Blank Rome LLP
1 Logan Square Floor 9
Philadelphia, PA 19103-6998

Re: Trademark Infringement of INTENSA (U.S. Trademark Reg. No. 2,775,839)
Our File No. 110864

Dear Mr. Perry:

This law firm is counsel for Corona Cigar Company of Orlando, Florida in intellectual property matters. As your client is aware, our client is the owner of the mark INTENSA, which has been used since at least February of 2000 as a brand of Corona cigars. Moreover, our client owns incontestable U.S. Trademark Registration No. 2,775,839 for the mark INTENSA (a copy of the registration is enclosed for your review).

This letter is written in regard to your client's willful trademark infringement of our client's INTENSA trademark by its promotion and sale of cigars and dissemination of related promotional materials bearing the infringing mark INTENSO. Although the word CU-AVANA is sometimes used in conjunction with the word INTENSO on your client's cigars, it is barely, if at all, legible, as it appears as if it is merely part of design rather than a word:



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255 South Orange Ave.
Suite 1401
Orlando, FL 32801
Mail To: P.O. Box 3791
Orlando, FL 32802-3791

tel: 407-841-2330
fax: 407-841-2343

Jacksonville Office
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Suite 1916
Jacksonville, FL 32207

tel: 904-398-7000
fax: 904-398-7003

Melbourne Office
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Suite 507
Melbourne, FL 32901

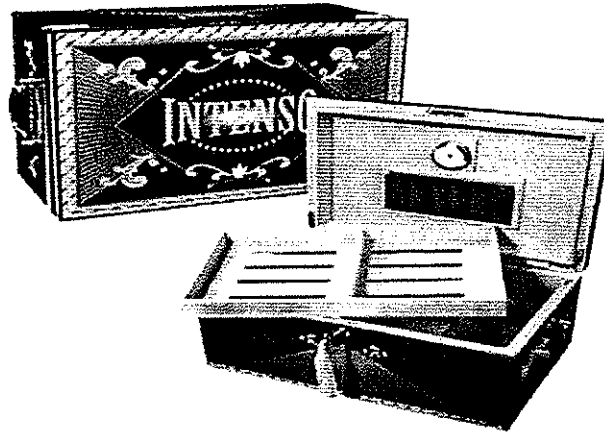
tel: 321-725-4760
fax: 321-984-7078



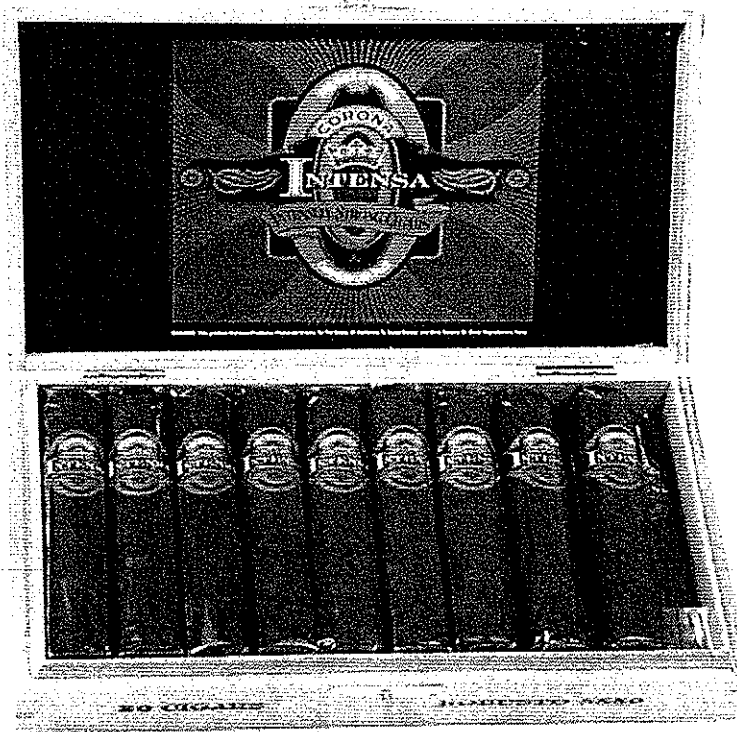
www.addmg.com

Mr. David Perry
April 13, 2009
Page 2 of 3

Your client's humidors are also prominently marked with the word **INTENSO**, and do not appear to display the word **CU-AVANA** at all on the lid:



There can be no question that your client adopted the name **INTENSO** to deliberately trade on our client's goodwill and trademark rights, as well as to attempt to confuse our client's customers and potential customers. This is reinforced by the design and colors used in your client's **INTENSO** products, which uses a design that closely resembles the design used by our client on its **INTENSA**-brand cigars:



Mr. David Perry
April 13, 2009
Page 3 of 3

We are aware that your client obtained a registration for the mark **CU-AVANA INTENSO** (Reg. No. 3,535,112), but *only* after the Patent and Trademark Office refused registration of its original application for the mark **INTENSO** (Serial No. 77/230,331) on the basis of our client's **INTENSA** registration. The fact that your client adopted **INTENSO** despite its knowledge that the Trademark Office found it to be likely to cause confusion with our client's mark is additional evidence of your client's willful infringement.


Under the circumstances, your client is likely to be liable for damages consisting of all its profits from sales of **INTENSO** products, as well as the costs of the lawsuit and attorney's fees under 15 U.S.C. § 1117. If we are forced to litigate to resolve this issue, rest assured we will seek the maximum amount allowable under the law.

This being said, our client would consider settling this dispute short of litigation if your client:

- 1) Immediately discontinues all use of the word **INTENSO**, with or without the word **CU-AVANA**, and agrees not to adopt or use any mark confusingly similar to that of our client;
- 2) Destroys or sends to our client all goods, packaging and advertisements which include the name **INTENSO**; and
- 3) Reimburses our client for all infringing sales to date.

This issue must be resolved promptly. We therefore expect to receive your response by no later than **5:00p.m., EDT, April 24, 2009**. This letter is written without prejudice to our client's rights in this matter, and is an attempt to achieve settlement.

Very truly yours,


Allison R. Imber

ARI/sdp
Enclosure

cc: Cigars International, Inc.
Swedish Match AB
Cigars.com
Meier & Dutch
Ava K. Doppelt, Esq.

Int. Cl.: 34

Prior U.S. Cls.: 2, 8, 9 and 17

Reg. No. 2,775,839

United States Patent and Trademark Office

Registered Oct. 21, 2003

**TRADEMARK
PRINCIPAL REGISTER**

INTENSA

**CORONA CIGAR COMPANY (FLORIDA COR-
PORATION)
7792 W. SAND LAKE ROAD
ORLANDO, FL 32819**

**THE ENGLISH TRANSLATION OF "INTENSA" IS
"INTENSE".**

**FOR: CIGARS, IN CLASS 34 (U.S. CLS. 2, 8, 9 AND
17).**

SER. NO. 78-190,591, FILED 12-3-2002.

FIRST USE 2-1-2000; IN COMMERCE 2-1-2000.

TARAH HARDY, EXAMINING ATTORNEY